

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CENTER FOR BIOLOGICAL
DIVERSITY, et al.,

Plaintiffs,

v.

GALE A. NORTON, Secretary of the
Interior, et al.,

Defendants.

Case No.: C-05-5191 JSW

**SECOND STIPULATION AND
[PROPOSED] ORDER TO EXTEND
TIME TO ANSWER AND FOR
FILING OF SUMMARY
JUDGMENT BRIEFS**

WHEREAS,

1. On December 15, 2005, Plaintiffs served their Complaint in this action on the U.S. Attorney for the Northern District of California requesting a declaratory judgment and injunctive relief related to their petition ("Plaintiffs' Petition") to list the polar bear (*Ursus maritimus*) as a threatened species under the Endangered Species Act (the "ESA").

Defendant's answer is thus due to be filed by February 13, 2006;

2. On January 18, 2006, Plaintiffs filed a motion for summary judgment requesting the Court declare that the Secretary is in violation of the ESA for failing to make a 90-day finding on Plaintiff's Petition pursuant to 16 U.S.C. § 1533(b)(3)(A) and further requesting the Court to order the Secretary to make and publish a 90-day finding on Plaintiff's Petition within 30 days of the Court's Order; on February 2, 2006, Plaintiffs re-noticed their summary judgment motion;

3. On February 2, 2006, the Court ordered Defendants to file an opposition to Plaintiffs' motion by February 17, 2006 and ordered Plaintiffs to file a reply by February 24, 2006;

4. On February 9, 2006, the U.S. Fish and Wildlife Service published a 90-day finding on Plaintiff's Petition which states: "We find that the petition presents substantial scientific or commercial information indicating that the petitioned action of listing the polar bear may be warranted." Endangered and Threatened Wildlife and Plants; Petition to List the

1 Polar Bear as Threatened, 71 Fed. Reg. 6745-46 (February 9, 2006);

2 5. The parties wish to further extend the dates for the filing of Defendants' answer
3 and the remaining summary judgment briefs. As good cause, the parties state that they are
4 close to reaching a settlement of this action. This extension will allow them to finalize and
5 execute a stipulated settlement agreement and a proposed order dismissing this case.

6 THEREFORE THE PARTIES STIPULATE:

7 Defendants will file their answer to Plaintiffs' complaint and their opposition to
8 Plaintiffs' summary judgment motion by March 31, 2006. In addition, the parties request that
9 the hearing date on Plaintiffs' Motion for Summary Judgment, currently set for March 17,
10 2006, be continued until April 28, 2006 or at any time thereafter which is convenient for the
11 Court.

12
13 Dated: February 23, 2006

14 /s/

15 Paul D. Lall
16 Attorney for Defendants GALE NORTON and the
17 UNITED STATES FISH AND WILDLIFE
SERVICE

18 Dated: February 23, 2006

19 /s/ (by Paul D. Lall with consent)

20 Kassia Siegel (CA Bar No. 209497)
21 Attorneys for Plaintiffs CENTER FOR
22 BIOLOGICAL DIVERSITY, NATURAL
RESOURCES DEFENSE COUNCIL, AND
GREENPEACE, INC.

23 * * * * *

24 PURSUANT TO STIPULATION, IT IS ~~SO ORDERED~~. HEREBY ORDERED that Defendants
25 will file their Answer and their opposition to Plaintiffs' motion for summary judgment by March
26 31, 2006. The hearing on the motion is HEREBY CONTINUED to May 5, 2006 at 9:00 a.m.

27 Dated: February 24, 2006

28 
JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE